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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In The Matter of)

Toll Free Service Access Codes)

CC Docket 95-155

REPLY COMMENTS OF MCI TELECOMMUNICATIONS CORPORATION

MCI Telecommunications Corporation, by counsel, pursuant to section 1.429 of the Federal Communications Commission's (Commission's) rules and regulations, 47 U.S.C. § 1.429, hereby submits these reply comments in the above-referenced proceeding.

The seven parties that filed pleadings in this proceeding since the Commission released its Second Report and Order And Further Notice of Proposed Rulemaking (Order)¹ have asked the Commission to reconsider and/or clarify the Order.² Two parties have sought a stay of the Order.³ While MCI shares the Commission's concern about the shortage of toll free numbers, it also believes that MCI and end users will be severely adversely impacted if the Commission declines to reconsider and/or clarify its Order in several respects.

The overall theme of the commenting parties is that the Commission's Order is overreaching, and contains many unclear provisions that severely restrict RespOrgs' ability to

¹*In the Matter of Toll Free Service Access Codes*, Second Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 95-155 (rel. Apr. 11, 1997).

²See Petitions For Reconsideration and/or Clarification have been filed by Vanity International, Sprint Communications Company, L.P., ICB, Inc., National Association of Telecommunications End-Users, Toll Free Referrals Co., TLDP Communications, Inc. and Tellnet Communications, Inc.

³See Emergency Petitions For Stay and Petitions for Reconsideration of Vanity International and the National Association of Telecommunications End-Users.

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conduct business in a fast-paced and highly competitive environment. In these reply comments, MCI addresses several issues that are of paramount importance to its continued ability to provide superior quality and customer service in the growing market of toll free number service.

I. THE COMMISSION’S RULES REGARDING HOARDING ARE UNCLEAR AND PLACE UNNECESSARY BURDENS ON INDUSTRY PARTICIPANTS

A. The Commission’s Requirement That RespOrgs Terminate A Subscriber’s Services After Determining That It Is Guilty Of Hoarding Is Unnecessary and Unduly Burdensome.

MCI joins in the concerns expressed by several commenting parties that the Commission’s rules regarding the practice of warehousing and hoarding of toll free numbers are burdensome and ill-defined. The Commission’s Order states that “[i]f a subscriber hoards numbers, that subscriber’s service provider must terminate toll free service . . .”⁴ That requirement, simple though it seems, creates a hornet’s nest of issues that the Commission’s Order neither recognizes nor addresses.

Simply stated, it is unnecessary and unreasonably burdensome to place RespOrgs in the position of monitoring the business practices of subscribers and/or end users, with an eye toward terminating their services. To place RespOrgs’ employees in the position of drawing conclusions about a subscriber’s behavior, based on facts gathered from an external perspective could have disastrous results.

The Commission is uniquely suited, and has the responsibility, to ensure that subscribers neither hoard numbers, nor take any other action contrary to the Commission’s rules. While MCI shares the Commission’s concerns about abuse of the toll free reservation process, MCI should

⁴Order, ¶ 42.

not have to include as part of its employees' goals and objectives, the requirement that they regularly delve into the business practices and policies of customers in order to ensure compliance with the law. An incorrect determination by an MCI employee, followed by disconnection of a subscriber's services, as is required by the Commission's Order, could expose MCI to liability for a myriad of violations, including interference with business relationships and breach of contract, to name a few. The Commission should thus not require service providers to terminate subscriber services under these circumstances.

Although MCI joins other parties in requesting a more precise definition of "hoarding," MCI also recognizes that regardless of the technical precision of any such definition, the Commission should not require service providers to take the drastic action of termination of service unless and until the Commission, or another appropriate adjudicative body, makes a legal pronouncement that hoarding is in fact taking place. Based on such a finding, service providers should only be *required* to terminate an subscriber's services when the Commission so orders.⁵

While the industry's current ability to curb hoarding abuses may be less than perfect, MCI strongly urges the Commission not to impose on service providers the requirement that they

⁵The Petition For Reconsideration filed by Toll Free Referrals Co. (TFRC) foreshadows some of the implementation and enforcement difficulties inherent in the Commission's requirement that service providers terminate end user services, after concluding that the end user is hoarding numbers. For example, TFRC requests that service providers that disconnect an end user's services after suspected hoarding "may not be the carrier for that number for 2 years, if its reassigned." TFRC Petition, p. 2. TFRC's suggestion that service bureaus be penalized for abiding by the Commission's rules highlights the challenges associated with enforcement of this mandatory termination rule. If the Commission declines to remove the mandatory termination rule, it should enforce the rule itself. Otherwise, disputes between service providers and end users would continue for months with no direction from the Commission.

identify and evaluate the practices of subscribers, with an eye toward terminating their services. Again, MCI urges the Commission to shoulder the responsibility of determining whether hoarding (or any other abuse) has taken place. Anything less sets a remarkably dangerous precedent.

B. The Commission's "Rebuttable Presumption" Unnecessarily Hampers
Industry Efforts To Ensure That The 800 Sales Process Runs Smoothly.

MCI agrees with Sprint that the Commission's rule creating a "rebuttable presumption" of warehousing or hoarding where a number is reserved for any length of time absent a named customer,⁶ should be changed. The Commission should recognize the fact that maintenance of more than one number by a RespOrg or subscriber is not necessarily an indication of wrongdoing. Instead, in most instances, it is indicative of normal business practices.

Maintenance of a pool of numbers for customer choice and immediate availability is a central part of toll free marketing and sales practices. Moreover, the fact that numbers are immediately available for selection by customers saves valuable time in the sales process.

In support of a better alternative, MCI endorses Sprint's proposed rule under which numbers may remain in reserve status for a period of 45 days without assignment to a named end user.⁷ This 45-day period would allow time for the development of customer relationships, and the ability to formulate concrete business strategies, absent formal and debilitating regulations.

Additionally, the Commission's Order states that "... to the extent that telemarketing

⁶Order, ¶ 25.

⁷Sprint Petition For Reconsideration and Clarification (Sprint Petition), p. 2.

service bureaus are performing legitimate services, and not merely buying and selling numbers, such activity will not be considered ‘hoarding,’ but that routing multiple toll free numbers to a single subscriber will create a presumption of hoarding or brokering.”⁸ MCI agrees with the National Association of End-Users that a more precise definition of “legitimate services” is required in order to clarify the Commission’s intent.⁹

II. THE COMMISSION SHOULD NOT UNNECESSARILY RESTRICT THE ABILITY TO REACTIVATE TOLL FREE NUMBERS.

MCI shares Sprint’s concerns over business practices pursuant to which toll free numbers are re-reserved after they have been returned to the spare pool.¹⁰ Under the Commission’s existing Order, the re-reservation of such numbers is evidence of an attempt to warehouse the numbers.¹¹ The Commission has appointed DSMI, a Bellcore subsidiary, to submit regular reports to the Common Carrier Bureau for the purpose of notifying the Bureau when it notices RespOrgs that repeatedly reserve toll free numbers without identified subscribers.¹² MCI supports Sprint’s request that the Commission clarify its views with respect to these issues.

First, the Commission should clarify what DSMI’s responsibilities are with respect to this issue. Since reactivation of a disconnected number after four months does not necessarily

⁸Order, ¶ 40.

⁹Petition For Reconsideration and Emergency Petition Requesting Stay of Enforcement of the National Association of End-Users, p. 1.

¹⁰Sprint Petition, p. 3.

¹¹Order, ¶ 25.

¹²Order, ¶¶ 8, 29.

indicate an intent to warehouse that number, it is critical that the Commission provide additional guidance on DSMI's responsibilities in this regard.

Second, the Commission's rule states that "no requests for extension of the four month disconnect interval shall be granted."¹³ The Commission should reconsider this rule because the reactivation of a number that has been in disconnect status for over four months is not necessarily an indication of an intent to warehouse the number. As Sprint's Petition points out, it could also indicate any number of other factual circumstances, none of which are indicative of warehousing or other ill intent. For example, it could indicate that there is a legitimate payment dispute with respect to the number, and after resolution of the dispute, the number is reactivated for the same customer.¹⁴ The number also could have been disconnected by mistake, thus necessitating reactivation of the number for the same customer. Also, as underscored by Sprint, reactivation of a number under those circumstances, or if the number was originally disconnected in error, should not be a *per se* violations of the Commission's Order.¹⁵ Thus, MCI joins Sprint's request that the Commission reconsider its decision to deny, as a matter of course, all extensions of the four month disconnect interval.

¹³Section 52.103(d).

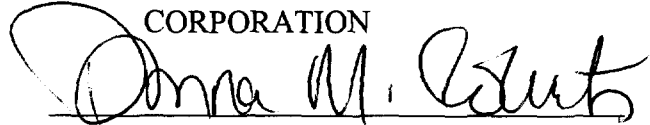
¹⁴Sprint Petition, p. 5.

¹⁵*Id.*

WHEREFORE, for the foregoing reasons, MCI respectfully requests that the Commission clarify and/or reconsider its Order, as requested herein.

Respectfully submitted,

MCI TELECOMMUNICATIONS
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A handwritten signature in black ink, appearing to read "Donna M. Roberts", is written over a horizontal line.

Donna M. Roberts

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Dated: July 2, 1997

CERTIFICATE OF SERVICE

I, John E. Ferguson III, do hereby certify that copies of the foregoing Reply Comments of MCI in the Matter of Toll Free Services Access Codes were sent, on this 2nd day of July, 1997, via first-class mail, postage pre-paid, to the following:

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